

Introduced by Senator Calderon

February 22, 2012

An act to amend Section ~~40113~~ *10110.1* of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1212, as amended, Calderon. Insurance.

Existing law provides that an individual has an unlimited insurable interest in his or her own life, health, and bodily safety and may lawfully take out a policy of insurance on his or her own life, health, or bodily safety and have the policy made payable to whomsoever he or she pleases, regardless of whether the beneficiary designated has an insurable interest, as specified.

Existing law defines "stranger-originated life insurance," also referred to as "STOLI," as an act, practice, or arrangement to initiate the issuance of a life insurance policy in this state for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest, under the laws of this state, in the life of the insured.

This bill would exclude "stranger-originated life insurance" from the provision authorizing an individual to lawfully take out a policy of insurance on his or her own life, health, or bodily safety and have the policy made payable to whomsoever he or she pleases, regardless of whether the beneficiary designated has an insurable interest.

~~Under existing law, every policy of life, disability, or life and disability insurance issued or delivered within this state by any insurer doing such business within this state is required to contain and is deemed~~

~~to constitute the entire contract between the parties and, except as specified, nothing shall be incorporated by reference, as specified.~~

~~This bill would make a technical, nonsubstantive change to that section.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10110.1 of the Insurance Code is amended
2 to read:

3 10110.1. (a) An insurable interest, with reference to life and
4 disability insurance, is an interest based upon a reasonable
5 expectation of pecuniary advantage through the continued life,
6 health, or bodily safety of another person and consequent loss by
7 reason of that person's death or disability or a substantial interest
8 engendered by love and affection in the case of individuals closely
9 related by blood or law.

10 (b) An individual has an unlimited insurable interest in his or
11 her own life, health, and bodily safety and may lawfully take out
12 a policy of insurance on his or her own life, health, or bodily safety
13 and have the policy made payable to whomsoever he or she pleases,
14 regardless of whether the beneficiary designated has an insurable
15 interest, *except for a policy that qualifies as "stranger-originated*
16 *life insurance" as defined in Section 10113.1.*

17 (c) Except as provided in Section 10110.4, an employer has an
18 insurable interest, as referred to in subdivision (a), in the life or
19 physical or mental ability of any of its directors, officers, or
20 employees or the directors, officers, or employees of any of its
21 subsidiaries or any other person whose death or physical or mental
22 disability might cause financial loss to the employer; or, pursuant
23 to any contractual arrangement with any shareholder concerning
24 the reacquisition of shares owned by the shareholder at the time
25 of his or her death or disability, on the life or physical or mental
26 ability of that shareholder for the purpose of carrying out the
27 contractual arrangement; or, pursuant to any contract obligating
28 the employer as part of compensation arrangements or pursuant
29 to a contract obligating the employer as guarantor or surety, on
30 the life of the principal obligor. The trustee of an employer or
31 trustee of a pension, welfare benefit plan, or trust established by

1 an employer providing life, health, disability, retirement, or similar
2 benefits to employees and retired employees of the employer or
3 its affiliates and acting in a fiduciary capacity with respect to those
4 employees, retired employees, or their dependents or beneficiaries
5 has an insurable interest in the lives of employees and retired
6 employees for whom those benefits are to be provided. The
7 employer shall obtain the written consent of the individual being
8 insured.

9 (d) Trusts and special purpose entities that are used to apply for
10 and initiate the issuance of policies of insurance for investors,
11 where one or more beneficiaries of those trusts or special purpose
12 entities do not have an insurable interest in the life of the insured,
13 violate the insurable interest laws and the prohibition against
14 wagering on life.

15 (e) Any device, scheme, or artifice designed to give the
16 appearance of an insurable interest where there is no legitimate
17 insurable interest violates the insurable interest laws.

18 (f) An insurable interest shall be required to exist at the time
19 the contract of life or disability insurance becomes effective, but
20 need not exist at the time the loss occurs.

21 (g) Any contract of life or disability insurance procured or
22 caused to be procured upon another individual is void unless the
23 person applying for the insurance has an insurable interest in the
24 individual insured at the time of the application.

25 (h) Notwithstanding subdivisions (a), (f), and (g), a charitable
26 organization that meets the requirements of Section 214 or 23701d
27 of the Revenue and Taxation Code may effectuate life or disability
28 insurance on an insured who consents to the issuance of that
29 insurance.

30 (i) This section shall not be interpreted to define all instances
31 in which an insurable interest exists.

32 ~~SECTION 1. Section 10113 of the Insurance Code is amended~~
33 ~~to read:~~

34 ~~10113. Every policy of life, disability, or life and disability~~
35 ~~insurance issued or delivered within this State on or after the first~~
36 ~~day of January, 1936, by any insurer doing such business within~~
37 ~~this State shall contain and shall be deemed to constitute the entire~~
38 ~~contract between the parties and nothing shall be incorporated~~
39 ~~therein by reference to any constitution, by-laws, rules, application~~
40 ~~or other writings, of either of the parties thereto or of any other~~

- 1 ~~person, unless the same are indorsed upon or attached to the policy;~~
- 2 ~~and all statements purporting to be made by the insured shall, in~~
- 3 ~~the absence of fraud, be representations and not warranties. Any~~
- 4 ~~waiver of the provisions of this section shall be void.~~